January 19, 2006

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
12th Street Lobby, TW-A325
Washington, DC 20554

Re: **In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92**

Dear Ms. Dortch:

On Wednesday, January 18, 2006, Mike Altschul, Senior Vice President and General Counsel, Christopher Guttman-McCabe, Vice President, Regulatory Affairs and Paul Garnett, Assistant Vice President, Regulatory Affairs, CTIA - The Wireless Association® met with Michelle Carey, Legal Advisor to Chairman Kevin Martin, to discuss various proposals to address difficulties both wireless and wireline carriers have identifying the originating carrier and jurisdiction of interconnected traffic – the so-called "phantom traffic" problem.[1] Although there may be instances in which certain carriers intentionally mislabel traffic to avoid compensation owed,[2] CTIA is not aware of any wireless carrier that intentionally mislabels traffic. Indeed, wireless carriers often receive traffic for which they cannot identify the originating jurisdiction of the caller, for example, due to the originating carrier's lack of SS-7 capability.

While CTIA continues to believe that the best way to truly address the problem of "phantom traffic" is for the Commission to adopt a unified system of

[1] *See, e.g.*, A USTelecom Proposal for Commission Action on Phantom Traffic (Nov. 2005) ("USTelecom Proposal") (attached to letter from Jeffrey S. Lanning, USTelecom, to Marlene H. Dortch, FCC, CC Docket No. 01-92, filed November 10, 2005); Proposed Rules for Proper Identification and Routing of Telecommunications Traffic (Dec. 5, 2005) ("Midsize Carrier Proposal") (attached to letter from Karen Brinkmann, Counsel, Midsize Carrier Coalition, to Marlene H. Dortch, FCC, CC Docket No. 01-92, filed December 20, 2005); Letter from Donna Epps, Verizon, to Marlene H. Dortch, Secretary, FCC, CC Docket No. 01-92, filed December 20, 2005 ("Verizon Response"); Letter from Thomas J. Sugrue, T-Mobile USA, Inc., to Marlene H Dortch, FCC, CC Docket No. 01-92, filed December 22, 2005 ("T-Mobile Letter").

[2] Similarly, there may be rural LECs which intentionally misroute wireline-to-mobile intraMTA traffic to an Interexchange Carrier to improperly assess access charges for this traffic. The FCC's rules clearly state that intraMTA traffic originating or terminating on a CMRS provider network is subject to reciprocal compensation rather than access charges. *See* 47 C.F.R. §§ 51.701(b)(2), 51.703. S*ee also Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, 11 FCC Rcd 15499, 16014 (1996). This issue also was recently addressed in the United States Court of Appeals for the Tenth Circuit's decision in *Atlas Telephone Co. v. Oklahoma Corp. Com'n.*, 400 F.3d 1256 (10th Cir. 2005).

interconnection, such as CTIA's Mutually Efficient Traffic Exchange (METE) proposal, the proposals advanced by the United States Telecom Association (USTelecom), T-Mobile, and Verizon Corp. offer some relief by addressing the steps all carriers should implement within the regulatory limitations of the Commission's current rules and the physical limitations of the circuit-switched Public Switched Telephone Network (PSTN).

CTIA generally supports the proposed rules advocated by USTelecom, T-Mobile, Verizon Corp, and others, detailing the responsibilities of carriers exchanging traffic to deliver signaling information to tandem providers and terminating carriers, which will facilitate the creation of accurate billing records and identification of parties responsible for payment.[3] CTIA particularly welcomes USTelecom's clarification of what "phantom traffic" is not: (1) Traffic containing correct information yet carriers dispute the appropriate rate based on differing interpretations of existing FCC rules; or (2) Traffic without correct signaling because of limitations of the network technology in use.[4] CTIA also supports USTelecom's proposal to impose obligations on carriers to transmit call originating information pursuant to relevant Commission rules and industry standards.[5] In addition, CTIA supports imposing an obligation on tandem transit providers, or any other provider in the transmission chain, to pass along all call origination information received from the originating carrier, or subsequent carrier in the chain, without alteration.[6]

CTIA urges the Commission to clarify USTelecom's proposal to "provide *all* carriers exchanging local traffic the ability to invoke the section 251/252 negotiation/arbitration process with one another"[7] as being limited to "all carriers exchanging local traffic with an Incumbent LEC." CTIA opposes any expansion of wireless carriers' obligation to negotiate traffic exchange agreements to cover carriers other than incumbent LECs. Extension of such obligations to wireless carrier interconnection with other competitive carriers (whether wireless or wireline) neither makes sense as a policy matter nor is permitted as a legal matter. Commercially negotiated interconnection among competitive carriers is working well without regulatory intervention and therefore such rules are unnecessary. The Commission should, however, take this opportunity to clarify that the *T-Mobile Order* did not create a right of incumbent LECs to demand direct interconnection with wireless carriers, an interpretation that directly conflicts with the spirit of the *T-Mobile Order*

[3] *See* USTelecom Proposal at 2.
[4] *See id.*
[5] *See id.* at 3-4. CTIA, for example, opposes *mandatory* population of the Jurisdiction Information Parameter (JIP), which is not required under industry standards and often will not identify the jurisdiction of a wireless call. *See* Letter from L. Charles Keller, Counsel for Verizon Wireless, to Marlene H. Dortch, FCC, CC Docket No. 01-92 , filed September 13, 2005, at 2-3.
[6] *See* USTelecom Proposal at 5.
[7] *See id.* at 8 (emphasis added).

and the interconnection rights and obligations detailed in Sections 251(a) and 251(c)(2) of the Communications Act.[8]

Finally, CTIA agrees with USTelecom that parties should be able to bring enforcement actions under Section 208 of the Communications Act and existing complaint procedures to remedy violations of any phantom traffic rules that are adopted. Section 208 should provide the exclusive remedy for any alleged violations of new phantom traffic rules. The Commission should make clear that self-help is not an appropriate or lawful form of "enforcement." For example, the Commission should make clear that terminating carriers may not block incoming calls they alone identify as phantom traffic. Moreover, carriers should not be permitted to secure any remedies, including orders authorizing the blocking of purported phantom traffic, from state regulatory or legal bodies.

CTIA stresses that USTelecom's proposal to clarify carrier responsibilities will provide only limited short-term relief. As discussed above, much of what has been characterized as "phantom traffic" is caused by rural incumbent LECs' use of intermediate tandems and lack of SS-7 capabilities. Imposition of new call information requirements will have minimal impact if rural incumbent LECs do not become SS-7 capable or continue to use intermediate tandems to route traffic. These problems could be addressed in the short term if rural incumbent LECs and wireless carriers negotiated and executed traffic exchange agreements incorporating traffic allocation factors, although such agreements cannot, on their own, overcome incentives for inefficiency inherent in the current intercarrier compensation rules. Moreover, as T-Mobile notes, few rural incumbent LECs have taken advantage of the right granted them in the *T-Mobile Order* to require wireless carriers to negotiate traffic exchange arrangements in good-faith.[9]

The best way to truly address the problem of call identification is for the Commission to move forward and adopt a unified system of interconnection, such as CTIA's Mutually Efficient Traffic Exchange (METE) proposal. To that end, the Commission should we wary of the unintended consequences of a phantom traffic "remedy" on the Commission's broader efforts to implement a unified intercarrier compensation system. The Commission should not impose a phantom traffic "remedy" that creates conflicts with current rules and industry standards.[10] In addition, any "remedy" should not require extensive investment or the expenditure of substantial resources to prop up the current antiquated and inefficient intercarrier compensation system.[11] It makes little sense, for example, to require carriers to make costly investment to enable last generation equipment to make jurisdictional

[8] *See* Rural Cellular Association, Petition for Clarification or, in the Alternative, Reconsideration, CC Docket No. 01-92, filed April 29, 2005.
[9] *See* T-Mobile Letter at 4 (citing Developing a Unified Intercarrier Compensation Regime, 20 FCC Rcd 4855 (2005) ("*T-Mobile Order*")).
[10] *See* Verizon Response at 6.
[11] *See* T-Mobile Letter at 2.

distinctions between categories of traffic while the Commission rightly is considering whether to eliminate all such jurisdictional distinctions.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed via ECFS with your office. Should you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

/s/ Paul Garnett

Paul Garnett

Cc: Michelle Carey